

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Jeanne Herrington,

Case No. 3:10 CV 1023

Plaintiff,

MEMORANDUM OPINION
AND ORDER

-vs-

JUDGE JACK ZOUHARY

International Monetary Fund,

Defendant.

Pro se Plaintiff Jeanne Herrington filed this action against “Agents for International Monetary . . . Fund[,] Internal Revenue Service, District Director, Special Procedures Function Officer and their Principal, Governor of International Monetary Fund aka Secretary of the Treasury” (Doc. No. 1). However, the case caption and the Court’s docket lists only the International Monetary Fund as a Defendant.

Plaintiff complains chiefly of a faulty indictment filed against her in this Court in Case No. 3:06 CR 0426-2. She claims the inadequacy of the indictment denied her due process. On November 14, 2008, a jury found her guilty of Conspiracy to Defraud the United States, 18 U.S.C. § 371, and Interference with the Administration of the Internal Revenue Laws, 26 U.S.C. § 7212(a). She was sentenced to 60 months of imprisonment on each count, to be served consecutively. Her appeal to the Sixth Circuit is pending (Case No. 09-3733). Plaintiff requests this Court remove all liens, vacate her criminal sentence, and release her immediately. *Id.*

ANALYSIS

While *pro se* pleadings are liberally construed, *Boag v. MacDougall*, 454 U.S. 364, 365 (1982) (per curiam), the district court may dismiss an action *sua sponte* if the complaint is so “implausible, attenuated, unsubstantial, frivolous, devoid of merit, or no longer open to discussion” as to deprive the court of jurisdiction. *Apple v. Glenn*, 183 F.3d 477, 479 (6th Cir. 1999) (citing *Hagans v. Lavine*, 415 U.S. 528, 536-37 (1974)).

Federal prisoners can challenge the constitutionality of their convictions only by filing a motion under 28 U.S.C. § 2255 or § 2241. *U.S. v. Callan*, 96 F. App’x 299, 300 (6th Cir. 2004). Plaintiff has not filed such a motion, and even if she had, it would be premature, because her direct appeal is still pending. *See U.S. v. Worthy*, No. 97-3377, 97-3687, 1998 WL 136208 at *1 (6th Cir. Mar. 18, 1998) (noting that a Section 2255 motion filed during the pendency of a direct appeal is premature). Furthermore, the Defendants (both the International Monetary Fund and others named in the Complaint) had no involvement in her criminal case. The Complaint is devoid of merit.

CONCLUSION

Accordingly, for the above reasons, this action is dismissed.

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U. S. DISTRICT JUDGE

June 9, 2010